

### **REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for the courtesies extended in the telephonic Examiner interview of November 20, 2006, and for carefully considering this application.

#### **Disposition of Claims**

Claims 1-24 were pending in this application. Claims 11 and 18 have been cancelled without prejudice or disclaimer. Claims 1, 6, 12, 15, 19, 23, and 24 are independent. The remaining claims depend, either directly or indirectly, from claim 1, 6, 12, 15, or 19.

#### **Claim Amendments**

Claims 12 and 24 have been amended to correct minor typographical and grammatical errors. No new subject matter has been added by way of these amendments, as support for these amendments is present in the original claims. These amendments have not been made in view of prior art or any other statutory basis for patentability.

#### **Declaration under 37 C.F.R. § 1.131**

The purpose of a 37 CFR § 1.131 declaration is to overcome a prior art rejection by proving invention of the claimed subject matter by the applicant prior to the effective date of the reference relied upon in the rejection. See MPEP 715.01.

A declaration under 37 C.F.R. § 1.131 may be established using one of three alternatives shown outlined in MPEP § 715.07, III:

37 C.F.R. 1.131(b) provides three ways in which an applicant can establish prior invention of the claimed subject matter. The showing of facts must be sufficient to show:

(A) >(actual)< reduction to practice of the invention prior to the effective date of the reference; or

(B) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to practice; or

(C) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice).  
(emphasis added)

In the instant case, Applicant is basing the declaration on the first alternative. Accordingly, the Applicant must only show actual reduction to practice prior to the effect date of the reference, *i.e.*, May 16, 2002. Further, as Applicant is basing the declaration on the first alternative, a showing of diligence, including engineering-diligence and attorney-diligence, is not required. See MPEP § 715.07, III.

### **Rejections Under 35 U.S.C. § 103**

#### *Claims 1-4, 6, 10, 11, 16-18, 21, and 22*

Claims 1-4, 6, 10, 11, 16-18, 21, and 22 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application No. 2003/0217130 ("Tang") in view of U.S. Patent Application No. 2003/0233380 ("Coss"). Claims 11 and 18 have been cancelled by this reply. Accordingly, this rejection is now moot with respect to the cancelled claims. With respect to the remaining claims, for the reasons set forth below, this rejection is respectfully traversed.

Tang is not valid prior art to this application as evidenced by the attached revised declaration under 37 C.F.R. § 1.131. As stated in the declaration, the present invention was reduced to practice prior to the effective date of Tang (*i.e.*, prior to May 16, 2002). In view of the above, Tang may not be used to support the aforementioned 35 U.S.C. § 103 rejection. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 5, 7-9, 12, 13, 15, 20, and 24

Claims 5, 7-9, 12, 13, 15, 20, and 24 are rejected under 35 U.S.C. § 103 as being obvious over Tang in view of Coss and further in view of U.S. Patent No. 6,578,131 ("Larson"). For the reasons set forth below, this rejection is respectfully traversed.

As discussed above, Tang may not be used to support the aforementioned 35 U.S.C. § 103 rejection. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 14, 19, and 23

Claims 14, 19, and 23 are rejected under 35 U.S.C. § 103 as being obvious over Tang in view of Coss and Larson, and further in view of U.S. Patent Application No. 2003/0159132 ("Barnett"). For the reasons set forth below, this rejection is respectfully traversed.


As discussed above, Tang may not be used to support the aforementioned 35 U.S.C. § 103 rejection. Accordingly, withdrawal of this rejection is respectfully requested.

**Conclusion**

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 03226/330001).

Dated: February 2, 2007

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Attachment (Revised declaration pursuant to 37 C.F.R. § 1.131)